

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

LUND MOTION PRODUCTS, INC.)
d/b/a AMP RESEARCH,)
)
Plaintiff,) C.A. No. 22-1430-CFC
)
v.) **JURY TRIAL DEMANDED**
)
ROUGH COUNTRY, LLC,)
)
Defendant.)

**UNOPPOSED MOTION OF DEFENDANT ROUGH COUNTRY LLC
TO STAY ACTION PENDING ITC DETERMINATION**

Defendant Rough Country LLC hereby respectfully moves, pursuant to 28 U.S.C. § 1659, to stay all proceedings against Rough Country in the above-captioned case until a parallel proceeding before the U.S. International Trade Commission (“ITC”) becomes final, including all appeals. Counsel for the parties conferred pursuant to D. Del. LR 7.1.1., and Plaintiff Lund Motion Products, Inc. d/b/a AMP Research (“Lund”) has indicated that it will not oppose this motion.

Lund brought this patent suit against Rough Country on October 28, 2022, alleging infringement of United States Patent Nos. 9,272,667; 9,527,449; 9,511,717; and 11,198,395 (collectively, the “Asserted Patents”). That same day, Lund filed a complaint with the ITC under Section 337 of the Tariff Act of 1930, alleging that Rough Country (and others) infringe the same Asserted Patents. The ITC issued a Notice of Investigation on December 1, 2022, for an investigation titled *Certain*

Automated Retractable Vehicle Steps and Components Thereof, Inv. No. 337-TA-1345 (the “Investigation”).

Pursuant to 28 U.S.C. § 1659 and the inherent powers of the Court to manage its docket, Rough Country respectfully requests that the Court stay this action as to all claims against Rough Country involving the Asserted Patents, until the resolution of the Investigation between Lund and Rough Country, including appeals. Under 28 U.S.C. § 1659, a district court shall stay any infringement proceedings pending parallel proceedings in the ITC when three factual prerequisites are met: (1) the civil action involves the parties that are also parties to a proceeding before the ITC; (2) the civil action involves the same issues as proceedings before the ITC; and (3) the request for a stay is made within 30 days of the ITC’s institution of an investigation.

See, e.g., NXP USA, Inc. v. MediaTek Inc., No. SA CV 21-01810-JVS, 2021 WL 8893646, at *1-2 (C.D. Cal. Dec. 20, 2021) (granting the defendant’s motion to stay where the defendant was a party to the ITC proceeding, the proceedings involved the same issues, and the motion was timely filed within 30 days of issuance of the ITC’s notice of investigation); *Evolved Wireless, LLC v. Samsung Elecs. Co. Ltd.*, No. 2:21-CV-00033-JRG, 2021 WL 7161368, at *1 (E.D. Tex. Mar. 10, 2021) (same); *Overland Storage, Inc., v. BDT Automation Tech. Co., Ltd.*, No. 10-CV-1700 JLS, 2010 WL 5089002, at *1-2 (S.D. Cal. Dec. 8, 2020) (same); *Verve, LLC v. Verifone, Inc.*, No. C04-03659JF, 2004 WL 2600452, at *1 (N.D. Cal. Nov. 15,

2004) (same); *Polymer Tech. Sys., Inc. v. ACON Laboratories, Inc.*, No. 18-cv-00805-H-JLB, 2018 WL 3388123, at *2-3 (S.D. Cal. July 11, 2018) (same); *Memory Techs., LLC v. SanDisk LLC*, No. 8:16-cv-02163-JLS-DFM, 2017 WL 8204099, at *1 (C.D. Cal. Mar. 7, 2017) (same); *Converse, Inc. v. Wal-Mart Stores, Inc.*, 14-CV-5978, 2014 WL 12769276, at *1-2 (E.D.N.Y. Dec. 23, 2014) (same); *see also In re Princo Corp.*, 486 F.3d 1365, 1368 (Fed. Cir. 2007) (“The purpose of § 1659 is to prevent separate proceedings on the same issues occurring at the same time.”).

Here, all three requirements for a statutory stay are met. First, Lund is the plaintiff here and the complainant in the Investigation, and Rough Country is a defendant here and a respondent in the Investigation. Second, the issues in this action involve the same issues as those in the Investigation because Lund is asserting the same Asserted Patents in both actions. Third, Rough Country filed this request for a stay within 30 days of the Investigation’s December 1 institution date.

For the foregoing reasons, Rough Country respectfully requests that the Court enter the attached proposed order and stay all proceedings in this action against Rough Country until the resolution of the Investigation between Lund and Rough Country, including all appeals.

Respectfully submitted,
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